

SENATE BILL NO. 119

INTRODUCED BY J. ESP

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT ~~ALLOWING~~ REQUIRING A MEDICAID PROGRAM FOR WORKERS WITH DISABILITIES; ESTABLISHING ELIGIBILITY REQUIREMENTS; PROVIDING FOR COST SHARING; AMENDING SECTIONS 53-6-113 AND 53-6-131, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Medicaid program for workers with disabilities -- purpose -- eligibility -- participant costs.** (1) ~~Subject to available~~ If appropriations SPECIFIC FOR THIS PURPOSE ARE PROVIDED BY THE LEGISLATURE and federal approval of the necessary amendments to the state medicaid plan IS SECURED, the department ~~may~~ SHALL administer a medicaid program that allows individuals with disabilities to participate in the medicaid program if they obtain employment that increases their incomes above eligibility limits. Participants in the program may be required to pay a portion of the costs for participation. The purpose of the program is to support employment for individuals with disabilities by providing medicaid coverage to individuals who would otherwise be ineligible for medicaid due to earnings that exceed the medicaid program's income limits.

(2) The medicaid program provided for under this section must be implemented in accordance with the provisions of 42 U.S.C 1396a(a)(10)(A)(ii)(XIII) and (r)(2).

(3) An employed individual is eligible for the program if the individual:

(a) has a net family income that is less than 250% of the federal poverty level;

(b) would be categorically eligible for medicaid because the individual is disabled as defined under Title XVI of the Social Security Act, 42 U.S.C. 1382c, except that the person has or has had earnings above the level for substantial gainful activity;

(c) has income and resources equal to or below the income and resource limits established by the department by rule, which may be less stringent than the income and resource limits for supplemental security income benefits; and

(d) satisfies all other eligibility criteria established by the department by rule.

(4) The department may establish:

1 (a) requirements for the employment status of participants, the verification of employment status, and
2 permissible temporary breaks in employment;

3 (b) requirements, limitations, and definitions pertaining to the income and resources of participants;

4 (c) only to the extent allowed under 42 U.S.C. 1396o, requirements for payment of premiums,
5 deductions, and cost sharing as a condition for participating in the program.

6 (5) The department shall, to the extent allowed by appropriations levels and under applicable state and
7 federal law, coordinate the medicaid program provided for under this section with other state and federal
8 programs and resources that promote opportunities for persons with disabilities to retain, regain, and maintain
9 employment.

10
11 **Section 2.** Section 53-6-113, MCA, is amended to read:

12 **"53-6-113. Department to adopt rules.** (1) The department of public health and human services shall
13 adopt appropriate rules necessary for the administration of the Montana medicaid program as provided for in this
14 part and that may be required by federal laws and regulations governing state participation in medicaid under Title
15 XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

16 (2) The department shall adopt rules that are necessary to further define for the purposes of this part the
17 services provided under 53-6-101 and to provide that services being used are medically necessary and that the
18 services are the most efficient and cost-effective available. The rules may establish the amount, scope, and
19 duration of services provided under the Montana medicaid program, including the items and components
20 constituting the services.

21 (3) The department shall establish by rule the rates for reimbursement of services provided under this
22 part. The department may in its discretion set rates of reimbursement that it determines necessary for the
23 purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited
24 to considering:

25 (a) the availability of appropriated funds;

26 (b) the actual cost of services;

27 (c) the quality of services;

28 (d) the professional knowledge and skills necessary for the delivery of services; and

29 (e) the availability of services.

30 (4) The department shall specify by rule those professionals who may deliver or direct the delivery of

1 particular services.

2 (5) The department may provide by rule for payment by a recipient of a portion of the reimbursements
3 established by the department for services provided under this part.

4 (6) The department may adopt rules consistent with this part to govern eligibility for the Montana
5 medicaid program, including the medicaid program provided for in [section 1]. Rules may include but are not
6 limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria,
7 family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and
8 recipient information, and cooperation with the state agency administering the child support enforcement program
9 under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq. The department may not apply financial criteria
10 below \$15,000 for resources other than income in determining the eligibility of a child under 19 years of age for
11 poverty level-related children's medicaid coverage groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through
12 (l)(1)(D).

13 (7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided
14 in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or
15 if funds appropriated are not sufficient to provide medical care for all eligible persons.

16 (8) The department may adopt rules necessary for the administration of medicaid managed care
17 systems. Rules to be adopted may include but are not limited to rules concerning:

- 18 (a) participation in managed care;
19 (b) selection and qualifications for providers of managed care; and
20 (c) standards for the provision of managed care.

21 (9) Subject to subsection (6), the department shall establish by rule income limits for eligibility for
22 extended medical assistance of persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who
23 lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the
24 department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended
25 medical assistance will be provided. The department, in exercising its discretion to set income limits and duration
26 of assistance, may consider the amount of funds appropriated by the legislature."

27
28 **Section 3.** Section 53-6-131, MCA, is amended to read:

29 **"53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may
30 be granted to a person who is determined by the department of public health and human services, in its

1 discretion, to be eligible as follows:

2 (a) The person receives or is considered to be receiving supplemental security income benefits under
3 Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess
4 of the applicable medical assistance limits.

5 (b) The person would be eligible for assistance under the program described in subsection (1)(a) if that
6 person were to apply for that assistance.

7 (c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the
8 person would be receiving assistance under the program in subsection (1)(a).

9 (d) The person is under 21 years of age and in foster care under the supervision of the state or was in
10 foster care under the supervision of the state and has been adopted as a child with special needs.

11 (e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(d) and:

12 (i) the person's income does not exceed the income level specified for federally aided categories of
13 assistance and the person's resources are within the resource standards of the federal supplemental security
14 income program; or

15 (ii) the person, while having income greater than the medically needy income level specified for federally
16 aided categories of assistance:

17 (A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically
18 needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the
19 department the amount by which the person's income exceeds the medically needy income level specified for
20 federally aided categories of assistance; and

21 (B) has resources that are within the resource standards of the federal supplemental security income
22 program.

23 (f) The person is a qualified pregnant woman or child as defined in 42 U.S.C. 1396d(n).

24 (g) The person is under 19 years of age and lives with a family having a combined income that does not
25 exceed 185% of the federal poverty level. The department may establish lower income levels to the extent
26 necessary to maximize federal matching funds provided for in 53-4-1104.

27 (2) The department may establish income and resource limitations. Limitations of income and resources
28 must be within the amounts permitted by federal law for the medicaid program. Any otherwise applicable eligibility
29 resource test prescribed by the department does not apply to enrollees in the healthy Montana kids plan provided
30 for in 53-4-1104.

(3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for medicaid-eligible persons participating in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(4) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid benefits, as defined in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as provided in 53-6-101.

(6) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed 133% of the federal poverty threshold, as provided in 42 U.S.C. 1396a(a)(10)(A)(ii)(IX) and 42 U.S.C. 1396a(l)(2)(A)(i), and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.

(8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

(9) A person described in subsection (7) must be provided continuous eligibility for medical assistance,

as authorized in 42 U.S.C. 1396a(e)(5) through a(e)(7).

(10) Full medical assistance under the Montana medicaid program may be granted to an individual during the period in which the individual requires treatment of breast or cervical cancer, or both, or of a precancerous condition of the breast or cervix, if the individual:

(a) has been screened for breast and cervical cancer under the Montana breast and cervical health program funded by the centers for disease control and prevention program established under Title XV of the Public Health Service Act, 42 U.S.C. 300k, or in accordance with federal requirements;

(b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the breast or cervix;

(c) is not otherwise covered under creditable coverage, as provided by federal law or regulation;

(d) is not eligible for medical assistance under any mandatory categorically needy eligibility group; and

(e) has not attained 65 years of age.

(11) The SUBJECT TO THE LIMITATION IN [SECTION 1], THE department may SHALL provide medicaid coverage to workers with disabilities as provided in [section 1] and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII) and (r)(2) and 42 U.S.C. 1396o."

NEW SECTION. SECTION 4. TRANSITION. DURING THE BIENNIUM BEGINNING JULY 1, 2009, THE DEPARTMENT SHALL IMPLEMENT THE PROGRAM PROVIDED FOR IN [THIS ACT] USING EXISTING STAFF AND AVAILABLE RESOURCES.

NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, apply to [section 1].

NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 2009.

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